

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**VOTER REFERENCE FOUNDATION,** )  
**LLC and HOLLY STEINBERG** ) **CASE NO: 1:22-cv-00222-JB-KK**  
) )  
Plaintiffs, )  
**v.** )  
) **JOINT STIPULATION**  
**HECTOR BALDERAS**, in his official )  
capacity as New Mexico Attorney General, and )  
**MAGGIE TOULOUSE OLIVER**, in her )  
Official capacity as New Mexico )  
Secretary of State, )  
) )  
Defendants. )

**JOINT STIPULATION TO ADMIT INTO EVIDENCE**  
**FOR PURPOSES OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**  
**STATE EXHIBITS 2 THROUGH 9 AND PLAINTIFFS EXHIBIT 15**

COME NOW Defendants Secretary of State Maggie Toulouse Oliver and Attorney General Hector Balderas and Plaintiffs Voter Reference Foundation, LLC (“VRF”) and Holly Steinberg (collectively, the “Parties”), by and through counsel, and stipulate to the admissibility into evidence of State Exhibits 2 through 9 and Plaintiff Exhibit 15 for purposes of Plaintiffs’ Motion for Preliminary Injunction. A true and correct copy of each exhibit is attached hereto.

Respectfully submitted this 21<sup>st</sup> day of June, 2022.

/s/ Olga Serafimova  
Olga M. Serafimova  
Senior Civil Counsel  
P.O. Drawer 1508  
Santa Fe, NM 87501-1508  
(505) 490-4046  
oserafimova@nmag.gov

*Counsel for Defendants*

**GRAVES GARRETT, LLC**

/s/ Edward Greim

Edward D. Greim

Missouri Bar No. 54034

*Admitted Pro Hac Vice*

GRAVES GARRETT LLC

1100 Main Street, Suite 2700

Kansas City, Missouri 64105

Tel.: (816) 256-3181

Fax: (816) 222-0534

edgreim@gravesgarrett.com

**HARRISON, HART & DAVIS, LLC**

/s/ Barter Harrison

Carter B. Harrison IV

924 Park Avenue SW, Suite E

Albuquerque, NM 87102

Tel: (505) 369-6599

Fax: (505) 341-9340

carter@harrisonhartlaw.com

*Counsel for Plaintiffs*



## Voter Data Request Form

Please select one of the following:

☐ Electronic File    ☐ Printed List    ☐ Mailing Labels

EXHIBIT

SE 2

## VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

## Please indicate the purpose of this request:

☐ Governmental Use☐ Campaign Use☒ Election Related

## Please indicate the type of file that you are requesting:

☒ Statewide☐ District \_\_\_\_\_☐ County(s) \_\_\_\_\_☐ Other: \_\_\_\_\_

## Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☐ Voting History

(elections a voter has participated in)

☐ Method Voted

(i.e. absentee, early or Election Day)

☐ Other\*: \_\_\_\_\_

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

## Information of Requestor

Name: Craig Swanson

Organization: i360 LLC

Address: 2300 Clarendon Blvd, Suite 800, Arlington, VA 22201

Phone: (703) 672 .2694

Email Address: cswanson@i-360.com

Date: 04 / 25 / 2022

## Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

## For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$15.00

#### Please indicate the purpose of this request:

☐ Governmental Use ☒ Campaign Use ☐ Election Related  
☐ Research ☐ Other \_\_\_\_\_

#### Please indicate the type of file that you are requesting:

☐ Statewide ☒ District NM House District 51  
☐ County(s) \_\_\_\_\_  
☐ Other: \_\_\_\_\_

#### Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts (all districts associated with a voter) ☒ Voting History (elections a voter has participated in) ☒ Method Voted (i.e. absentee, early or Election Day)

☒ Other\*: All Republicans registered in the newly redistricted NM House District 51

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

#### Information of Requestor

Name: John Block Organization: John For New Mexico  
 Address: 1111 Tenth Street, #402, Alamogordo, NM 88310 Phone: (575) 201-3230  
 Email Address: info@johnform.com Date: 01 / 26 / 2022

#### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

#### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



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CLERK OF STATE

## Voter Data Request Form

Please select one of the following:

☐ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$15.00

#### Please indicate the purpose of this request:

☒ Governmental Use  
☐ Research

☐ Campaign Use

☐ Election Related

☒ Other info for Constituent letter

#### Please indicate the type of file that you are requesting:

☐ Statewide

☐ County(s)

☐ Other:

☒ District 6 - Senate

#### Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☐ Voting History

(elections a voter has participated in)

☐ Method Voted

(i.e. absentee, early or Election Day)

☒ Other\*: Number of people in each County in district 6

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

#### Information of Requestor

Name: Roberto "Bobby" J. Gonzales Organization: Senator

Address: 26 Lavender Lane

Phone: 505 770-3178

Email Address: Roberto.Gonzales@nmlegis.gov

Date: 2/11/2022

Tammy Jaramillo@nmlegis.gov

#### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Tammy Jaramillo  
Signature of Requestor

#### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Completed: \_\_\_\_/\_\_\_\_/\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

Please indicate the purpose of this request:

☐ Governmental Use

☒ Campaign Use

☐ Election Related

Please indicate the type of file that you are requesting:

☒ Statewide

☐ District \_\_\_\_\_

☐ County(s) \_\_\_\_\_

☐ Other: \_\_\_\_\_

Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☐ Voting History

(elections a voter has participated in)

☐ Method Voted

(i.e. absentee, early or Election Day)

☐ Other\*: \_\_\_\_\_

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

### Information of Requestor

Name: Brian Lloyd Organization: Democratic Party of New Mexico  
 Address: 223 Solano Dr. NE Albuquerque NM 87108 Phone: (505) 747-7520  
 Email Address: brian@nmdemocrats.org Date: 3/11/2022

### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Brian Lloyd

Signature of Requestor

### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_/\_\_\_\_/\_\_\_\_ Date Completed: \_\_\_\_/\_\_\_\_/\_\_\_\_  
 Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

#### Please indicate the purpose of this request:

☐ Governmental Use

☒ Campaign Use

☐ Election Related

#### Please indicate the type of file that you are requesting:

☒ Statewide

☐ District \_\_\_\_\_

☐ County(s) \_\_\_\_\_

☐ Other: \_\_\_\_\_

#### Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☐ Voting History

(elections a voter has participated in)

☐ Method Voted

(i.e. absentee, early or Election Day)

☐ Other\*: \_\_\_\_\_

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

#### Information of Requestor

Name: Brian Lloyd

Organization: Democratic Party of New Mexico

Address: 225 Solano Dr. NE Albuquerque NM 87108

Phone: (505) 747-7520

Email Address: brian@nmDemocrats.org

Date: 4/19/2022

#### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Brian Lloyd

Signature of Requestor

Total Cost: \$ \_\_\_\_\_

Date Received: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

For Office Use Only

Date Completed: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

Comments: \_\_\_\_\_

Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☐ Electronic File    ☐ Printed List    ☐ Mailing Labels

EXHIBIT

SE 3

## VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

## Please indicate the purpose of this request:

☐ Governmental Use☐ Campaign Use☒ Election Related

## Please indicate the type of file that you are requesting:

☒ Statewide☐ District☐ County(s)☐ Other:

## Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☒ Voting History

(elections a voter has participated in)

☒ Method Voted

(i.e. absentee, early or Election Day)

☐ Other\*:

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

## Information of Requestor

Name: Nicole DungerOrganization: Catalist LLCAddress: 1310 L St NW #500 Washington, DC 20005Phone: (202) 962 - 7207Email Address: ndunger@catalist.usDate: 12 / 22 / 2021

## Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978)

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

## For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File ☐ Printed List ☐ Mailing Labels

## VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

## Please indicate the purpose of this request:

☐ Governmental Use  
☐ Research☐ Campaign Use  
☐ Other \_\_\_\_\_☒ Election Related

## Please indicate the type of file that you are requesting:

☒ Statewide  
☐ County(s) \_\_\_\_\_  
☐ Other: \_\_\_\_\_☐ District \_\_\_\_\_

## Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts  
(all districts associated with a voter)☒ Voting History  
(elections a voter has participated in)☒ Method Voted  
(i.e. absentee, early or Election Day)☐ Other\*: 2020 general election, 2020 state primary, 2020 Presidential Primary, 2019 general, general and primary in even years

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

## Information of Requestor

Name: Marguerita ten Houten

Organization: Catalyst LLC

Address: 1310 L Street NW #500, Washington DC 20005

Phone: (202) 962 - 7227

Email Address: mtenhouten@catalist.us

Date: 1 / 15 / 2020

## Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

## For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

**NOTE:** Minimum charge for any request is \$25.00

#### Please indicate the purpose of this request:

☐ Governmental Use

☐ Campaign Use

☒ Election Related

#### Please indicate the type of file that you are requesting:

☒ Statewide

☐ District \_\_\_\_\_

☐ County(s) \_\_\_\_\_

☐ Other: \_\_\_\_\_

#### Please indicate all information that you are requesting:

**NOTE:** All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts

(all districts associated with a voter)

☒ Voting History

(elections a voter has participated in)

☒ Method Voted

(i.e. absentee, early or Election Day)

☐ Other\*: November 2021 voting history

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

#### Information of Requestor

Name: Craig Swanson

Organization: i360 LLC

Address: 2300 Clarendon Blvd, Suite 800, Arlington, VA 22201

Phone: (703) 672-2694

Email Address: cswanson@i-360.com

Date: 2 / 3 / 2022

#### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Craig Swanson  
Signature of Requestor

#### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_



## Voter Data Request Form

Please select one of the following:

☒ Electronic File    ☐ Printed List    ☐ Mailing Labels

## VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

## Please indicate the purpose of this request:

☐ Governmental Use☐ Campaign Use☒ Election Related

## Please indicate the type of file that you are requesting:

☒ Statewide☐ County(s) \_\_\_\_\_☐ Other: \_\_\_\_\_☐ District \_\_\_\_\_

## Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☐ Districts

(all districts associated with a voter)

☒ Voting History

(elections a voter has participated in)

☒ Method Voted

(i.e. absentee, early or Election Day)

☒ Other\*: Active & inactive Voters

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

## Information of Requestor

Name: Evan LoganOrganization: 1360, LLCAddress: 2300 Clarendon blvd. Suite 800 Arlington VA Phone: (703) 672-2686Email Address: elogan@i-360.comDate: 03/16/2021

## Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

  
 \_\_\_\_\_  
 Signature of Requestor

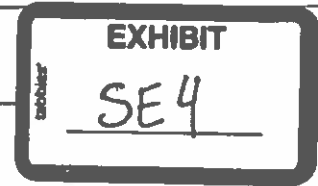
## For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

## § 1-4-5.5. Requests for voter data, mailing labels or special voter lists, NM ST § 1-4-5.5

West's New Mexico Statutes Annotated  
 Chapter 1. Elections  
 Article 4. Registration of Electors



N. M. S. A. 1978, § 1-4-5.5

## § 1-4-5.5. Requests for voter data, mailing labels or special voter lists

Effective: July 1, 2015

Currentness

A. The county clerk or secretary of state shall furnish voter data, mailing labels or special voter lists only upon written request to the county clerk or the secretary of state and after compliance with the requirements of this section; provided, however, all requesters shall be treated equally in regard to the charges and the furnishing of the materials.

B. In furnishing voter data, mailing labels or special voter lists, the county clerk or secretary of state shall not provide data or lists that include voters' social security numbers, codes used to identify agencies where voters have registered, a voter's day and month of birth or voters' telephone numbers if prohibited by voters.

C. Each requester of voter data, mailing labels or special voter lists shall sign an affidavit that the voter data, mailing labels and special voter lists shall be used for governmental or election and election campaign purposes only and shall not be made available or used for unlawful purposes.

D. The secretary of state shall prescribe the form of the affidavit.

E. As used in this section:

(1) "election campaign purposes" means relating in any way to a campaign in an election conducted by a federal, state or local government;

(2) "governmental purposes" means noncommercial purposes relating in any way to the structure, operation or decision-making of a federal, state or local government;

(3) "mailing labels" means prepared mailing labels of selected voters arranged in the order in which requested and providing only the name and address of the voter;

(4) "special voter list" means a prepared list of selected voters arranged in the order in which requested; and

(5) "voter data" means selected information derived from the voter file.

**§ 1-4-5.5. Requests for voter data, mailing labels or special voter lists, NM ST § 1-4-5.5**

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**Credits**

L. 1975, Ch. 255, § 78; L. 1995, Ch. 166, § 6, eff. June 16, 1995; L. 2005, Ch. 270, § 35, eff. July 1, 2005. Recompiled from § 1-5-24 by L. 2011, Ch. 137, § 109, eff. July 1, 2011; L. 2015, Ch. 145, § 15, eff. July 1, 2015.

**Formerly** 1953 Comp., § 3-5-29.

NMSA 1978, § 1-4-5.5, NM ST § 1-4-5.5

Current through Chs. 1 to 3, 7, 14, 27, 34, and 35 of the 2nd Regular Session and Ch. 2 of the 3rd Special Session of the 55th Legislature (2022)

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End of Document

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§ 1-20-10. False swearing, NM ST § 1-20-10

West's New Mexico Statutes Annotated

Chapter 1. Elections

Article 20. Offenses and Penalties (Refs & Annos)

N. M. S. A. 1978, § 1-20-10

§ 1-20-10. False swearing

Currentness

False swearing consists of taking any oath required by the Election Code with the knowledge that the thing or matter sworn to is not a true and correct statement.

Whoever falsely swears is guilty of a fourth degree felony.

Credits

L. 1969, Ch. 240, § 434.

Formerly 1953 Comp., § 3-20-8.

NMSA 1978, § 1-20-10, NM ST § 1-20-10

Current through Chs. 1 to 3, 7, 14, 27, 34, and 35 of the 2nd Regular Session and Ch. 2 of the 3rd Special Session of the 55th Legislature (2022)

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§ 1-20-1. Effect of article, NM ST § 1-20-1

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West's New Mexico Statutes Annotated  
Chapter 1. Elections  
Article 20. Offenses and Penalties (Refs & Annos)

N. M. S. A. 1978, § 1-20-1

§ 1-20-1. Effect of article

Currentness

The penalties imposed by Sections 1-20-3 through 1-20-23 NMSA 1978 do not apply to offenses for which penalties are otherwise provided in the Election Code.

**Credits**

L. 1969, Ch. 240, § 427.

Formerly 1953 Comp., § 3-20-1.

NMSA 1978, § 1-20-1, NM ST § 1-20-1

Current through Chs. 1 to 3, 7, 14, 27, 34, and 35 of the 2nd Regular Session and Ch. 2 of the 3rd Special Session of the 55th Legislature (2022)

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§ 1-4-5.6. Unlawful use of voter data, mailing labels or special..., NM ST § 1-4-5.6



West's New Mexico Statutes Annotated  
Chapter 1. Elections  
Article 4. Registration of Electors

N. M. S. A. 1978, § 1-4-5.6

§ 1-4-5.6. Unlawful use of voter data, mailing labels or special voter lists; penalties

Effective: July 1, 2011

Currentness

A. Unlawful use of voter data, mailing labels or special voter lists consists of the knowing and willful use of such information for purposes prohibited by the Voter Records System Act.

B. Any person, organization or corporation or agent, officer, representative or employee thereof who commits unlawful use of voter data, mailing labels or special voter lists is guilty of a fourth degree felony and upon conviction shall be fined one hundred dollars (\$100) for each and every line of voter information that was unlawfully used.

C. Each and every unlawful use of voter data, mailing labels or special voter lists constitutes a separate offense.

#### Credits

L. 1975, Ch. 255, § 79; L. 2001, Ch. 146, § 9; L. 2005, Ch. 270, § 36, eff. July 1, 2005. Recompiled from § 1-5-25 by L. 2011, Ch. 137, § 109, eff. July 1, 2011.

Formerly 1953 Comp., § 3-5-30.

NMSA 1978, § 1-4-5.6, NM ST § 1-4-5.6

Current through Chs. 1 to 3, 7, 14, 27, 34, and 35 of the 2nd Regular Session and Ch. 2 of the 3rd Special Session of the 55th Legislature (2022)

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§ 1-5-22. Unlawful disposition of voter file; penalty, NM ST § 1-5-22

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West's New Mexico Statutes Annotated  
Chapter 1. Elections  
Article 5. Voter Records System

N. M. S. A. 1978, § 1-5-22

§ 1-5-22. Unlawful disposition of voter file; penalty

Currentness

A. Unlawful disposition of voter file consists of the willful selling, loaning, providing access to or otherwise surrendering of the voter file, duplicates of the file or a part of the file by a data processor; a data processor's agent or employee; a state or county officer; or a state or county officer's deputy, assistant, employee or agent to anyone not authorized by the Voter Records System Act to have possession of the file.

B. For purposes of this section, a file maintenance list shall be considered a voter file or a part of a voter file.

C. Any data processor, officer, deputy, assistant, agent or employee who commits unlawful disposition of a voter file is guilty of a fourth degree felony.

Credits

L. 1975, Ch. 255, § 76; L. 2005, Ch. 270, § 33, eff. July 1, 2005

Formerly 1953 Comp., § 3-5-27.

NMSA 1978, § 1-5-22, NM ST § 1-5-22

Current through Chs. 1 to 3, 7, 14, 27, 34, and 35 of the 2nd Regular Session and Ch. 2 of the 3rd Special Session of the 55th Legislature (2022)

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EXHIBIT

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## **Presidential Advisory Commission on Election Integrity**

June 28, 2017

The Honorable Maggie Toulouse Oliver  
Secretary of State  
325 Don Gaspar, Suite 300  
Santa Fe, NM 87501

Dear Secretary Oliver,

I serve as the Vice Chair for the Presidential Advisory Commission on Election Integrity ("Commission"), which was formed pursuant to Executive Order 13799 of May 11, 2017. The Commission is charged with studying the registration and voting processes used in federal elections and submitting a report to the President of the United States that identifies laws, rules, policies, activities, strategies, and practices that enhance or undermine the American people's confidence in the integrity of federal elections processes.

As the Commission begins its work, I invite you to contribute your views and recommendations throughout this process. In particular:

1. What changes, if any, to federal election laws would you recommend to enhance the integrity of federal elections?
2. How can the Commission support state and local election administrators with regard to information technology security and vulnerabilities?
3. What laws, policies, or other issues hinder your ability to ensure the integrity of elections you administer?
4. What evidence or information do you have regarding instances of voter fraud or registration fraud in your state?
5. What convictions for election-related crimes have occurred in your state since the November 2000 federal election?
6. What recommendations do you have for preventing voter intimidation or disenfranchisement?
7. What other issues do you believe the Commission should consider?

In addition, in order for the Commission to fully analyze vulnerabilities and issues related to voter registration and voting, I am requesting that you provide to the Commission the publicly-available voter roll data for New Mexico, including, if publicly available under the laws of your state, the full first and last names of all registrants, middle names or initials if available, addresses, dates of birth, political party (if recorded in your state), last four digits of social

security number if available, voter history (elections voted in) from 2006 onward, active/inactive status, cancelled status, information regarding any felony convictions, information regarding voter registration in another state, information regarding military status, and overseas citizen information.

You may submit your responses electronically to [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov) or by utilizing the Safe Access File Exchange ("SAFE"), which is a secure FTP site the federal government uses for transferring large data files. You can access the SAFE site at <https://safe.amrdec.army.mil/safe/Welcome.aspx>. We would appreciate a response by July 14, 2017. Please be aware that any documents that are submitted to the full Commission will also be made available to the public. If you have any questions, please contact Commission staff at the same email address.

On behalf of my fellow commissioners, I also want to acknowledge your important leadership role in administering the elections within your state and the importance of state-level authority in our federalist system. It is crucial for the Commission to consider your input as it collects data and identifies areas of opportunity to increase the integrity of our election systems.

I look forward to hearing from you and working with you in the months ahead.

Sincerely,



Kris W. Kobach  
Vice Chair  
Presidential Advisory Commission on Election Integrity

SECRETARY OF STATE  
JUL 17 2017 3:51 PM  
17

**FOR IMMEDIATE RELEASE**

**June 30, 2017**

Contact: John Blair (505) 490-1952

**New Mexico Secretary of State Toulouse Oliver  
Responds to Presidential Election Commission Request  
for New Mexican Voters Personal Data**

SANTA FE – New Mexico Secretary of State Maggie Toulouse Oliver released the following statement today regarding a request from President Trump's Advisory Commission on Election Integrity for the personal data of voters:

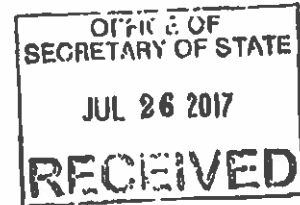
"My office has not yet received the letter from President Trump's election commission requesting the personal information of New Mexico voters. That being said, I will never release the personally identifiable information of New Mexico voters protected by law, including their social security number and birthdate. Further, I will not release any other voter information like names, addresses or voting history unless and until I am convinced the information will not be used for nefarious or unlawful purposes, and only if I am provided a clear plan for how it will be secured. As New Mexico's Chief Election Official, I will continue to ensure the integrity of our elections while protecting the voting rights and personal privacy of our voters."

When President Trump announced his Advisory Commission on Election Integrity earlier this year, Secretary of State Toulouse Oliver released this statement:

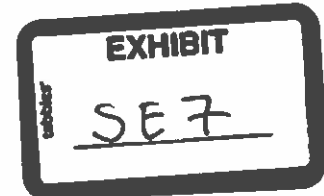
"If President Trump truly wants to boost Americans' confidence in the integrity of our elections, he should stop making false claims of rampant voter fraud. President Trump's voter fraud allegations are simply not true and they are doing real damage to our democracy. I fear that Trump's Commission will be nothing more than a Trojan Horse used to justify partisan efforts making it harder to vote."

# # #

Follow Secretary Toulouse Oliver on [Facebook](#) and [Twitter](#).



**Presidential Advisory Commission on Election Integrity**



July 26, 2017

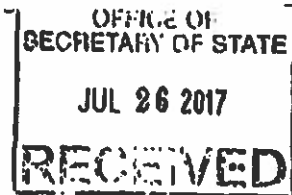
Office of the Secretary of State of New Mexico  
The Honorable Maggie Toulouse Oliver, Secretary of State  
325 Don Gaspar, Suite 300  
Santa Fe, NM 87501

Dear Secretary Oliver,

In my capacity as Vice Chair of the Presidential Advisory Commission on Election Integrity, I wrote to you on June 28, 2017, to request publicly available voter registration records. On July 10, 2017, the Commission staff requested that you delay submitting any records until the U.S. District Court for the District of Columbia ruled on a motion from the Electronic Privacy Information Center that sought to prevent the Commission from receiving the records. On July 24, 2017, the court denied that motion. In light of that decision in the Commission's favor, I write to renew the June 28 request, as well as to answer questions some States raised about the request's scope and the Commission's intent regarding its use of the registration records. I appreciate the cooperation of chief election officials from more than 30 States who have already responded to the June 28 request and either agreed to provide these publicly available records, or are currently evaluating what specific records they may provide in accordance with their State laws.

Like you, I serve as the chief election official of my State. And like you, ensuring the privacy and security of any non-public voter information is a high priority. My June 28 letter only requested information that is already available to the public under the laws of your State, which is information that States regularly provide to political candidates, journalists, and other interested members of the public. As you know, federal law requires the States to maintain certain voter registration information and make it available to the public pursuant to the National Voter Registration Act (NVRA) and the Help America Vote Act (HAVA). The Commission recognizes that State laws differ regarding what specific voter registration information is publicly available.

I want to assure you that the Commission will not publicly release any personally identifiable information regarding any individual voter or any group of voters from the voter registration records you submit. Individuals' voter registration records will be kept confidential and secure throughout the duration of the Commission's existence. Once the Commission's analysis is



complete, the Commission will dispose of the data as permitted by federal law. The only information that will be made public are statistical conclusions drawn from the data, other general observations that may be drawn from the data, and any correspondence that you may send to the Commission in response to the narrative questions enumerated in the June 28 letter. Let me be clear, the Commission will not release any personally identifiable information from voter registration records to the public.

In addition, to address issues raised in recent litigation regarding the data transfer portal, the Commission is offering a new tool for you to transmit data directly to the White House computer system. To securely submit your State's data, please have a member of your staff contact Ron Williams on the Commission's staff at [ElectionIntegrityStaff@ovp.eop.gov](mailto:ElectionIntegrityStaff@ovp.eop.gov) and provide his or her contact information. Commission staff will then reach out to your point of contact to provide detailed instructions for submitting the data securely.

The Commission will approach all of its work without preconceived conclusions or prejudgments. The Members of this bipartisan Commission are interested in gathering facts and going where those facts lead. We take seriously the Commission's mission pursuant to Executive Order 13799 to identify those laws, rules, policies, activities, strategies, and practices that either enhance or undermine the integrity of elections processes. I look forward to working with you in the months ahead to advance those objectives.

Sincerely,

A handwritten signature in black ink, appearing to read "Kris Kobach".

Kris W. Kobach  
Vice Chair  
Presidential Advisory Commission on Election Integrity

**FOR IMMEDIATE RELEASE**

**July 27, 2017**

Contact: John Blair (505) 490-1952

## **Secretary of State Toulouse Oliver Responds to Second Request by President Trump's Election Commission for New Mexico Voters' Personal Data**

SANTA FE – New Mexico Secretary of State Maggie Toulouse Oliver released the following statement today regarding a second request from President Donald Trump's Advisory Commission on Election Integrity for the personal data of New Mexico voters:

"My office has received another request for New Mexico voters' personal data from President Trump's 'Voter Fraud Panel.' Upon review of this request, my answer is still no.

"As I've said before, I will never release the personally identifiable information of New Mexico voters protected by law, including their social security number and birthdate. Because the Commission has still not demonstrated that the data will be used for a lawful purpose under New Mexico law, provided any plan for ensuring that voters' personal data will be secured, or explained how comparing insufficient data will produce any meaningful conclusions, I won't release any New Mexicans' voter information.

"My office has received an overwhelming response from New Mexicans who have made it clear they do not want their voter information shared with the Trump Commission. When you consider that some 4,000 Colorado residents have cancelled their voter registration because their Secretary of State has indicated he will cooperate with the Trump Commission's request for personal data, the risk of that happening in New Mexico outweighs any perceived benefit of participating. As New Mexico's Chief Election Official, I will continue to ensure the integrity of our elections while protecting the voting rights and personal privacy of our voters."

# # #

Follow Secretary Toulouse Oliver on [Facebook](#) and [Twitter](#).

6/15/22, 8:59 AM

'OFA HE MO'ONI MALUOFI KI TONGA LATU, 10646 OAKMOOR CT, PARKER, Colorado 80134 | Vote Reference

**Before You Get Started**

# SE 8

VoteRef.com provides on-demand public access to voter registration records collected from state and local election officials.

Our mission is to ensure fair elections by providing voters with full transparency and easy access to voting records, which historically have been difficult to obtain.

VoteRef.com is for election-related, noncommercial use and for users based in the United States only. Before accessing the site, please read our [Terms of Service](#) and agree you will abide by them by clicking on the Accept button below.

Accept

Reject



- [Glossary](#)

**[RETURN to SEARCH](#)**

1. [Home](#)
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3. [Colorado](#)
4. [Douglas](#)
5. [PARKER](#)
6. 'OFA HE MO'ONI MALUOFI KI TONGA LATU

**'OFA HE MO'ONI MALUOFI KI TONGA LATU****Registration Address**

10646 OAKMOOR CT, PARKER, Colorado 80134

**Registration Date**

March 11, 2021

**Birthdate**

2000

**Party Affiliation**

Unaffiliated

**Registration Status**

Active

**Precinct**

4304418314

*All data from Colorado Secretary of State*

voter    ▼    New Search...

**No Record of Vote History**

The information on this website about this voter, including records of this voter's voting history, was provided to Voter Reference Foundation LLC ("VRF") by the Colorado Secretary of State ("Secretary") on March 29, 2021. The information is publicly available [here](#). The information published here by VRF appears exactly as provided by the Secretary. By publishing Secretary records verbatim, VRF does not state, represent, suggest, or imply that this voter voted or that this voter's ballot was counted or not counted. Additionally, the address of any voter who is in the Address Confidentiality Program and who has complied with [C.R.S. § 24-30-2108](#) (hereinafter referred to as a "protected voter") must be removed from the publicly available voter list by the Secretary or the Elections Department Clerk of each county. If you believe the information provided to VRF by the Secretary is

6/15/22, 8:59 AM

'OFA HE MO'ONI MALUOFI KI TONGA LATU, 10646 OAKMOOR CT, PARKER, Colorado 80134 | Vote Reference

inaccurate, or if you believe that you or any person listed on VoteRef.com is a protected voter whose protected information should not appear on VoteRef.com, please immediately contact the Secretary by emailing [elections@coloradosos.gov](mailto:elections@coloradosos.gov) or calling 303-894-2200, or contact the Elections Department Clerk in the applicable county (click [here](#) for contact information for each county). For assistance with the process of applying for protected voter status through the Address Confidentiality Program, click [here](#). Upon receipt of official documentation confirming your or any person's protected voter status sent to us at [privacy@voteref.com](mailto:privacy@voteref.com), VRF will remove the protected information from VoteRef.com.

Voter Reference Foundation LLC™ is a subsidiary of Restoration Action, Inc.®, a 501(c)(4) nonprofit social welfare organization. All rights reserved.

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**EXHIBIT**  
**SE 9**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**VOTER REFERENCE FOUNDATION,  
LLC, et al.,**

and

**HOLLY STEINBERG,**  
Plaintiffs,

**V.**

**HECTOR BALDERAS**, in his official capacity as New Mexico Attorney General,

and

**MAGGIE TOULOUSE OLIVER**, in her  
Official capacity as New Mexico  
Secretary of State,  
Defendants.

**CASE NO: 1:22-cv-00222-JB-KK**

## DECLARATION OF EDWARD D. GREIM

## DECLARATION OF EDWARD D. GREIM

Edward D. Greim, pursuant to the 28 U.S.C. § 1746, states that the following is true and correct:

a) Pursuant to the New Mexico Inspection of Public Records Act (“IPRA”), on April 26, 2022, I made requests to the New Mexico Secretary of State’s Office and the New Mexico Attorney General’s Office for certain public records. True and correct copies of those requests are attached to this declaration as D1 (to the Attorney General) and D2 (to the Secretary of State).

b) On May 11, 2022, Patrick Rostock, the Records Custodian for the Secretary of State's Office, produced some documents responsive to the request attached as D2. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P4, P6, P7, P8, and P9. The documents attached hereto marked as Plaintiffs' exhibits P4, P6, P7, P8, and P9 are true and correct copies of records

produced by the Secretary of State on May 11, 2022, in response to the IPRA request attached as D2.

c) On May 18, 2022, Brittney Martinez, the Records Custodian for the Attorney General's Office, produced some documents responsive to the request attached as D1. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P12, P13, and P14. The documents attached hereto marked as Plaintiffs' exhibits P12, P13, and P14 are true and correct copies of records produced by the Attorney General's Office on May 18, 2022, in response to the IPRA request attached as D1.

d) On May 26, 2022, Brittney Martinez, the Records Custodian for the Attorney General's Office, produced additional documents responsive to the request attached as D1. That production included the following documents now marked as Plaintiffs' Exhibits for purposes of the pending Preliminary Injunction Hearing: P11. The document attached hereto as Plaintiffs' exhibit P11 is a true and correct copy of a record produced by the Attorney General's Office on May 26, 2022, in response to the IPRA request attached as D1.

e) On May 27, 2022, I caused a letter to be sent on behalf of Voter Reference Foundation to the New Mexico Secretary of State providing notice to the Secretary and the State of New Mexico that it is in violation of the National Voter Registration Act. That letter also included additional requests for voter data on behalf of Voter Reference Foundation. A true and correct copy of that letter is attached hereto as Exhibit P10.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 14, 2022.



Edward D. Greim

# **Exhibit D1**



Graves Garrett LLC

Edward D. Greim  
816.256.4144 phone  
816.817.0864 fax  
[edgreim@gravesgarrett.com](mailto:edgreim@gravesgarrett.com)

April 26, 2022

**Via E-Mail Only**

Records Custodian  
New Mexico Attorney General's Office  
PO Drawer 1508  
Santa Fe, NM 87504-1508  
[IPRArequestrecords@nmag.gov](mailto:IPRArequestrecords@nmag.gov)

**Re: IPRA Records Request**

Dear Custodian of Records:

This firm represents the Voter Reference Foundation ("VRF"). VRF hereby requests a copy of the following records pursuant to the Inspection of Public Records Act ("IRPA").

1. Any criminal referral from the New Mexico Secretary of State, from March 1, 2021, to the present, referencing the Voter Reference Foundation or Local Labs.
2. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into Voter Reference Foundation or Local Labs.
3. Any criminal referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
4. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into the subject of any referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.



Graves Garrett LLC

IRPA Request

Page 2 of 3

Please provide your response, and any responsive documents that are immediately available, within three (3) business days. Please make your production on a rolling basis if necessary. If at least some records can be produced without objection or are clearly responsive, please produce those documents first. Please produce all electronic data in its native format, preserving all metadata.

Please send responses and communications regarding this request to the following address, in electronic form if possible, or to the following mail address:

[edgreim@gravesgarrett.com](mailto:edgreim@gravesgarrett.com)

Edward D. Greim

Graves Garrett LLC

1100 Main Street, Suite 2700

Kansas City, MO 64105

If you deny any part of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there are any portions of this request that you find objectionable for any reason, please notify me in writing of the objections immediately, identifying by date and subject what documents are covered by the objection, and the specific legal authority for the objection. Please provide a privilege log for records that you refuse to release as privileged or otherwise closed.

If a public record contains exempt and nonexempt materials, please separate the exempt and nonexempt materials and make the nonexempt materials available for inspection. Please consider each request separately, so that any objection to one request will not unnecessarily delay responses to the remainder of the requests.

VRF agrees to pay the applicable fees for copying and transmitting the records. Please provide a receipt indicating the charges for each document.

Finally, we wish to address at the outset two legal points that may arise as you consider your response. First, we are aware of N.M.S.A. § 14-2-1.A(4), an exception to IRPA for "law enforcement records that reveal confidential sources, methods, information or individuals accused but not charged with a crime." However, in the case of VRF, the Secretary is not a confidential source and both the Attorney General and Secretary have publicly confirmed that a referral was made. Additionally, certain investigative materials were publicly attached to the Attorney General's response to the Motion for Preliminary Injunction in Case No. 1:22-cv-0222-JB-KK pending in the U.S. District Court for the District of New Mexico. *See* Dkt. 13, Exs. 1-4.



IRPA Request

Page 3 of 3

Second, occasionally government defendants object to open records requests because of the pendency of litigation. There is pending litigation between VRF and the Attorney General; litigation counsel for the Attorney General's office, Olga Serafimova, is copied on this letter. However, this is not a valid objection, particularly given the Attorney General's explicit guidance to the contrary:

Sometimes questions come up regarding the relationship between the Act and requests for records in the context of discovery in civil litigation. For example, an inspection request under the Act may be made instead of or in addition to a discovery request. Generally, the two schemes for obtaining records are separate and independent; the availability of records under the Act does not affect a litigant's discovery rights or vice versa. Unless an applicable exception to the right to inspect public records applies, **a public body may not deny an inspection request just because the requester is engaged in litigation against the public body or has asked for the same records in discovery.**

Attorney General's Inspection of Public Records Act Compliance Guide at 34 (emphasis added).

Thank you for your attention, and we will look forward to your prompt response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Edward D. Greim'.

Edward D. Greim

cc: Olga Serafimova, Esq.

# **Exhibit D2**



Graves Garrett LLC

Edward D. Greim  
816.256.4144 phone  
816.817.0864 fax  
[edgreim@gravesgarrett.com](mailto:edgreim@gravesgarrett.com)

April 26, 2022

**Via E-Mail Only**

Records Custodian  
New Mexico Secretary of State  
New Mexico Capitol Annex North  
325 Gaspar, Suite 300  
Santa Fe, NM 87501  
[Sos.elections@state.nm.us](mailto:Sos.elections@state.nm.us)

**Re: IPRA Records Request**

Dear Custodian of Records:

This firm represents the Voter Reference Foundation ("VRF"). VRF hereby requests a copy of the following records pursuant to the Inspection of Public Records Act ("IRPA").

1. Any criminal referral made by the New Mexico Secretary of State, from March 1, 2021, to the present, referencing the Voter Reference Foundation or Local Labs.
2. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into Voter Reference Foundation or Local Labs.
3. Any criminal referral made by the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
4. Any communications between any officer or employee of the office of the New Mexico Secretary of State, and between the Office of the Attorney General, about the progress of any criminal investigation opened by the Attorney General into the subject of any referral from the New Mexico Secretary of State, from January 1, 2020, to the present, regarding a potential violation of N.M.S.A. § 1-4-5.6 or the New Mexico Voter System Reference Act.
5. A record sufficient to show, for each request for New Mexico voter data made in 2021 or 2022, the Date of Request, Requestor, Organization Requesting,



Graves Garrett LLC

IRPA Request

Page 2 of 4

- Information Requested, Number of Records, Total Cost for Records, Date Requestor Notified, Date Payment Received, Date of Issue, and Method of Delivery ("Voter Request Processing Table"). If you contend that you cannot or will not produce a new Voter Request Processing Table pursuant to the IRPL, or that producing it will be unduly burdensome, then, without waiving our rights and remedies to obtain this data, we request that in the interim you produce to VRF the last such Table you produced to any requester in 2021, and the most recent such Table you produced to any requester in 2022.
6. Every version of the form for requesting voter information, variously known as the Voter Data Request Form, or Voter Information Authorization (singly or collectively, the "Request Form"), that your office has used or promulgated in 2020, 2021, and 2022.
  7. With respect to the Request Form, all records referencing or relating to drafts, or actual or potential edits or revisions between January 1, 2020 and today's date.
  8. All records relating to the "Secretary of State's investigation" to which the Secretary of State refers on Dkt. 13, page 7, in the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico.
  9. All records relating to, referencing, retrieving, forwarding, or commenting on the documents shown as Exhibits 1, 2, 3, or 4 to the Secretary's Response in Opposition to the Motion for Preliminary Injunction, Dkt. 13 in the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico. This request excludes and does not request any communications between the Secretary of State's office and its litigation counsel.
  10. All records that consist of, relate to, or reference a communication between any officer or employee of the Secretary of State and any member of the media, including but not limited to any reporter for ProPublica, regarding VRF, Local Labs, or the case of *VRF, et al. v. Balderas, et al.*, Case No. 1:22-cv-00022-JB-KK, in the U.S. Dist. Court of the District of New Mexico.
  11. All records reflecting a draft, revision, edit, or comment relating to the Secretary's public statement on June 30, 2017, which included the comment, "I will not release any other voter information like names, addresses or voting history unless and until I am convinced the information will not be used for nefarious or unlawful purposes, and only if I am provided a clear plan for how it will be secured."
  12. All records reflecting a draft, revision, edit, or comment relating to the Secretary's public statements, including but not limited to her statement to ProPublica, regarding VRF or Local Labs.



IRPA Request

Page 3 of 4

13. All records reflecting any inquiry or investigation in 2021 or 2022 into the propriety or lawfulness of the request, the ultimate end user of the data requested, or the purpose for which the data would be used, with respect to requests made by any of the following organizations: Provest, LLC; Catalist; L2 Inc.; Target Smart Communications; i360; Data Targeting; Aristotle International; or Veterans.

Please provide your response, and any responsive documents that are immediately available, within three (3) business days. Please make your production on a rolling basis if necessary. If at least some records can be produced without objection or are clearly responsive, please produce those documents first. Please produce all electronic data in its native format, preserving all metadata.

Please send responses and communications regarding this request to the following address, in electronic form if possible, or to the following mail address:

[edgreim@gravesgarrett.com](mailto:edgreim@gravesgarrett.com)

Edward D. Greim

Graves Garrett LLC

1100 Main Street, Suite 2700

Kansas City, MO 64105

If you deny any part of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law. If there are any portions of this request that you find objectionable for any reason, please notify me in writing of the objections immediately, identifying by date and subject what documents are covered by the objection, and the specific legal authority for the objection. Please provide a privilege log for records that you refuse to release as privileged or otherwise closed.

If a public record contains exempt and nonexempt materials, please separate the exempt and nonexempt materials and make the nonexempt materials available for inspection. Please consider each request separately, so that any objection to one request will not unnecessarily delay responses to the remainder of the requests.

VRF agrees to pay the applicable fees for copying and transmitting the records. Please provide a receipt indicating the charges for each document.

Finally, we wish to acknowledge that there is pending litigation between VRF and the Attorney General; litigation counsel for the Attorney General's office, Olga Serafimova, is therefore copied on this letter. However, the pendency of litigation is



Graves Garrett LLC

IRPA Request

Page 4 of 4

not a valid objection to an IRPA request, particularly given the Attorney General's explicit guidance to the contrary:

Sometimes questions come up regarding the relationship between the Act and requests for records in the context of discovery in civil litigation. For example, an inspection request under the Act may be made instead of or in addition to a discovery request. Generally, the two schemes for obtaining records are separate and independent; the availability of records under the Act does not affect a litigant's discovery rights or vice versa. Unless an applicable exception to the right to inspect public records applies, **a public body may not deny an inspection request just because the requester is engaged in litigation against the public body or has asked for the same records in discovery.**

Attorney General's Inspection of Public Records Act Compliance Guide at 34 (emphasis added).

Thank you for your attention, and we will look forward to your prompt response.

Sincerely,

Edward D. Greim

cc: Olga Serafimova, Esq.

**From:** [Rostock, Patrick, SOS](#)  
**To:** [Vigil, Mandy, SOS](#)  
**Cc:** [Pino, Sharon, SOS](#)  
**Subject:** FW: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks  
**Date:** Friday, March 11, 2022 8:36 00 AM  
**Attachments:** [image001.jpg](#)

Hi Mandy and Sharon,

Per Dylan's contact with the AG, we are not fulfilling records requests from VoteRef. Any information on how to proceed with this would be appreciated. I am also happy to forward this to the AG but I'm unsure what contact we have who is handling this. The request is clearly trying to create an aggregate picture of the voter rolls on election day 2020, which lends credence to the idea that VoteRef and Erin Clements/New Mexico Audit Force are working in concert.

Best,

Email Signature Logo



**Patrick Rostock | Paralegal & Records Custodian**

New Mexico Office of the Secretary of State  
 325 Don Gaspar, Ste. 300 | Santa Fe NM 87501  
 Desk: (505) 827-7941  
[patrick.rostock@state.nm.us](mailto:patrick.rostock@state.nm.us)

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**From:** Elections, SOS, SOS <SOS.Elections@state.nm.us>

**Sent:** Thursday, March 10, 2022 5:07 PM

**To:** Rostock, Patrick, SOS <Patrick.Rostock@state.nm.us>

**Subject:** [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks

On Mar 10, 2022 @ 05:06 pm, [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com) wrote:

Good afternoon,

Can you please provide a status update on the request?

Thank you,

Voter Reference Foundation

### Ticket Overview

[Reply Now](#)

**CREATOR** [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com)  
**ASSIGNEE** Patrick Rostock

Ticket Commands let you take control of your help desk remotely. For a full list of available

**EXHIBIT**

**P4**

commands and usage [click here](#).

Examples: #close, #add 5m, #assign to bob, #priority high

## Ticket History

---

*On Feb 16, 2022 @ 09:13 am, Charlotte Chinana wrote:*

Assigned to Patrick Rostock.

---

*On Feb 15, 2022 @ 04:06 pm, [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com) wrote:*

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Election Official,

Please provide us with the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021.

Thank you,

Voter Reference Foundation

:la

---

**Information of Requestor**

Name: David Michael Lippert

Organization: Local Labs

Address: 1611 Melrose Ave., St. Louis Park, MN 55426

Phone: (952) 905 - 8078

Email Address: mike.lippert@locallabs.com

Date: 03 / 29 / 2021

**From:** [Pino, Sharon, SOS](#)  
**To:** [Rostock, Patrick, SOS](#)  
**Subject:** FW: [EXTERNAL] Voter Ref Foundation  
**Date:** Thursday, April 28, 2022 10:59:34 AM  
**Attachments:** [image008.jpg](#)  
[image009.jpg](#)  
[image010.png](#)  
[image011.png](#)  
[image012.png](#)  
[image013.png](#)  
[image014.png](#)  
[image015.png](#)

Email Signature Logo



**Sharon L. Pino | Deputy Secretary of State and Chief of Staff**

New Mexico Office of the Secretary of State  
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
 Phone: (505) 827-3636  
[sharon.pino@state.nm.us](mailto:sharon.pino@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

**From:** Pino, Sharon, SOS  
**Sent:** Wednesday, April 6, 2022 3:11 PM  
**To:** 'Reyes, Steve' <[SReyes@sos.ca.gov](mailto:SReyes@sos.ca.gov)>  
**Cc:** ToulouseOliver, Maggie, SOS <[Maggie.TOliver@state.nm.us](mailto:Maggie.TOliver@state.nm.us)>  
**Subject:** RE: [EXTERNAL] Voter Ref Foundation

Good afternoon Steve,

We have been working with the Chief Deputy AG of Criminal Affairs, Anne Kelly. I have listed her contact information below. Please let me know if you need anything else.

Anne Kelly

[akelly@nmag.gov](mailto:akelly@nmag.gov)

work cell: (505) 318-7929

Have a good day!

Sharon

Email Signature Logo



**Sharon L. Pino | Deputy Secretary of State and Chief of Staff**

New Mexico Office of the Secretary of State  
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
 Phone: (505) 827-3636  
[sharon.pino@state.nm.us](mailto:sharon.pino@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

**From:** ToulouseOliver, Maggie, SOS <[Maggie.TOliver@state.nm.us](mailto:Maggie.TOliver@state.nm.us)>  
**Sent:** Wednesday, April 6, 2022 1:20 PM  
**To:** 'Reyes, Steve' <[SReyes@sos.ca.gov](mailto:SReyes@sos.ca.gov)>

**EXHIBIT**

**P6**

exhibitstickers.com

**Cc:** Pino, Sharon, SOS <[Sharon.Pino@state.nm.us](mailto:Sharon.Pino@state.nm.us)>

**Subject:** RE: [EXTERNAL] Voter Ref Foundation

Hi Steve!

Yes! I'm cc'ing my Deputy SOS Sharon Pino here – she's working directly with our AG office and can help make that connection.

Thanks for reaching out,

Maggie



**Maggie Toulouse Oliver | Secretary of State**

New Mexico Office of the Secretary of State

325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501

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**From:** Reyes, Steve <[SReyes@sos.ca.gov](mailto:SReyes@sos.ca.gov)>

**Sent:** Wednesday, April 6, 2022 11:52 AM

**To:** ToulouseOliver, Maggie, SOS <[Maggie.TOliver@state.nm.us](mailto:Maggie.TOliver@state.nm.us)>

**Subject:** [EXTERNAL] Voter Ref Foundation

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon Secretary!

I hope you are doing well.

We recently saw the NPR story related to the organization referenced above and their plans to post voter file data on their website. The article mentioned you were working with your Attorney General on this matter. We are doing the same.

Do you have a contact there that our Deputy Attorney General Tony O'Brien

([Anthony.O'Brien@doj.ca.gov](mailto:Anthony.O'Brien@doj.ca.gov)) can reach out to?

Thank you very much!

**Steve Reyes**

**Chief Counsel**

California Secretary of State

E: [sreyes@sos.ca.gov](mailto:sreyes@sos.ca.gov)



**From:** [Curtas, Alex, SOS](#)  
**To:** [Megan O'Matz](#)  
**Subject:** Re: [EXTERNAL] request for interview  
**Date:** Friday, January 7, 2022 2:46:37 PM

---

How about 11:30am MST? which I think is 12:30p CST if I'm not mistaken

**Alex Curtas | Communications Director**

New Mexico Secretary of State Maggie Toulouse Oliver  
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
Cell: 505.469.2783 | Desk: 505.827.3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Thursday, January 6, 2022 3:22 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] request for interview

Yes thank you! I have an appointment at 1 pm central time Monday, if we could chat before then...

- Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Thursday, January 6, 2022 4:16 PM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] request for interview

Hey Megan,

Would sometime Monday before 2pm MST work for you to chat with the Secretary on this?

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Wednesday, January 5, 2022 9:38 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] request for interview

Thank you thank you,  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>

**EXHIBIT**

**P7**

exhibitsricker.com

**Sent:** Wednesday, January 5, 2022 10:34 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] request for interview

Hey Megan,

I haven't forgotten about this! I'm meeting with the Secretary tomorrow and I'll get a few times that would work for her to do an interview. I know she's interested.

---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Wednesday, December 29, 2021 9:16 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** [EXTERNAL] request for interview

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,  
Happy new year.  
Would Secretary Oliver grant me a brief phone interview for our story about VoteRef.com – generally about the dangers of disinformation in the election process?  
We think the story would be stronger with her voice.  
Please let me know if she's agreeable to this and when she can find time in her schedule.  
Thank you,

**Megan O'Matz**  
Reporter for ProPublica, Wisconsin  
Cell: (954) 873-7576  
[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)  
<https://www.propublica.org/midwest>

---

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Tuesday, December 21, 2021 10:20 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** New Mexico possible charges

Hey Megan,

The issue relates to the transfer and publication of the voter data. This is the crux: "We do not believe providing this personal voter data on a private website that intends to spread misinformation about the 2020 General Election meets the definition of appropriate use as

either for a “governmental purpose,” “election related,” or “election campaign purposes.”

I've attached our referral letter which lays it all out. Let me know if I can provide any clarification on this. Thanks! -A

**Alex Curtas | Communications Director**

New Mexico Secretary of State Maggie Toulouse Oliver  
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
Cell: 505.469.2783 | Desk: 505.827.3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

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---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Friday, December 17, 2021 12:29 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. Much appreciated.  
Question – can you elaborate on how the publication of voter data online may violate state law?  
(VoteRef likely will argue that they are using it for election and research purposes.)  
Thank you again,  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Friday, December 17, 2021 12:40 PM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** Re: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

On the legal issue: Our office believes this publication of voter data by VoteRef.com is in direct violation of the New Mexico Election Code. We do not believe that posting New Mexican's private voting information online is legal use of this information. We will refer the use of this information by VoteRef.com to the New Mexico Attorney General for criminal investigation and prosecution.

I've also attached the email correspondence and the original request and receipt.

Let me know if this works for what you need.

Thanks!

Alex

**Alex Curtas | Communications Director**

New Mexico Secretary of State Maggie Toulouse Oliver  
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
Cell: 505.469.2783 | Desk: 505.827.3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Thursday, December 16, 2021 1:05 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, thank you....  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Thursday, December 16, 2021 2:03 PM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

Looking into all this now. Thanks for sending that email correspondence with LocalLabs. I'll get back to you asap after we track down that email chain and the payment receipt. And we're looking into the legal issue as well and I'll get an answer for you on that, too.

-A

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Thursday, December 16, 2021 11:44 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Alex,  
I see that your law says the voter rolls can be used only for  
"Governmental or election and election campaign purposes only." Unlawful use  
of lists is a 4<sup>th</sup> degree felony.

The VoteRef folks say online: " The purpose of this website is to provide public access to official government data pertaining to elections, including voter registration rolls, with a goal of encouraging greater voter participation in all fifty states. Our system of government is based upon citizen participation. We believe the people, in effect, own this data and have a legal right to see it in an understandable and transparent form. " [Vote Reference](#)  
Is this an acceptable use under New Mexico law?

Thank you again,

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

**From:** Megan O'Matz

**Sent:** Thursday, December 16, 2021 12:30 PM

**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>

**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex.

I found this attached document on the VoteRef web site, showing someone from LocalLabs contacted Lauren Hutchinson, SOS compliance officer, to access the records.

- Can you send me an unredacted version of this correspondence so I can see who from LocalLabs was asking for the data? LocalLabs provides data to partisan news web sites. (I'm not asking for user ID or account info.)
- Can you provide me with the payment receipt showing who paid the \$5,000 for the data?
- Is there anything improper under New Mexico law about accessing the data this way or posting it all online? I appreciate any link to the relevant statute.

Thank you again for your time in helping us report accurately and fairly on this important issue.

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Thursday, December 16, 2021 10:55 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

Simply put, VoteRef.com is misleading the public about New Mexico's voter rolls and are perpetuating misinformation. They reflect a lack of understanding about how the process of voter list maintenance works. These attempts by political operatives to cast doubt on the 2020 elections are an affront to our democracy and to the professionals who run our elections throughout the country. This most recent attempt that you've brought to our attention from VoteRef.com is no different.

To quickly answer your specific questions:

- The "discrepancy" they are alleging stems from their misunderstanding about how voter rolls are maintained by election administrators. The data sets they seem to be comparing were captured at two different points in time. The voting history data from 4/15 is a reflection of the counts at that point in time and not of the data as it was on Election Day or on any other day.
- No, our Office has not been contacted by this group to discuss their findings; likely because that would not serve their intended goal of spreading misinformation. New Mexico law requires that this data be requested through a specific process affirming lawful use of this data. However, we do not have a record of this group requesting voter data from our office directly, which brings into question how they obtained this data, if the data has not been manipulated, and if they are using it for a lawful purpose.

Because accusations from political operatives like this are meant to impugn the integrity of our voter rolls, I'd also just want to note that our Office is confident that the processes and procedures already in place for voter list maintenance not only follow all state and federal guidelines and keep our voter rolls clean and up-to-date, but go above and beyond those requirements.

During the voter list maintenance process New Mexico's election administrators, as required by law, must maintain and update their voter rolls continually -- everything from checking obituaries, receiving monthly reports from NM Vital Statistics about deceased individuals, and suspending or reinstating felons based on conviction notices from the Department of Corrections. This is done in conjunction with the proactive, pro-voter measures already in place in New Mexico, such as automated voter registration, all-mail special elections, and online and same day voter registration. All of these systems combine to ensure

that voter information is up-to-date in New Mexico, resulting in our state having some of the "cleanest" voter records in the United States.

Please let me know if that works for what you need.

Thanks,

Alex

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Wednesday, December 15, 2021 11:01 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. I am still reporting and don't have a publication date yet but appreciate your help as soon as convenient.

Best,  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Wednesday, December 15, 2021 11:39 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

I'm looking into this now with our staff. Do you have a deadline for this?

Thanks,

Alex

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Tuesday, December 14, 2021 2:56 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** [EXTERNAL] voter integrity question from ProPublica

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,

I'm a reporter with ProPublica and am looking into an organization called VoteRef.com that is posting tens of thousands of voter histories online nationwide, including New Mexico.

The group is alleging a 3,844 discrepancy between the number of ballots reported cast Nov 3, 2020 in New Mexico vs the number of voters shown in the voter history.

[Vote Reference](#) = All states    [2020 General Election | Vote Reference](#) = New Mexico

The group says turnout for New Mexico Nov 3 was 928,172. But voter histories obtained by VoteRef on April 15, 2021 show 924,328 participating in that election. That is a difference of 3,844

- What could be the possible explanations for the “discrepancy” in New Mexico?
- And, did your office have any correspondence with this group about their findings or methodology? Can you please provide copies to me?

Thank you,

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

**From:** [Curtas, Alex, SOS](#)  
**To:** [Megan O'Matz](#)  
**Subject:** RE: [EXTERNAL] RE: New Mexico possible charges  
**Date:** Wednesday, March 2, 2022 8:48:00 AM

---

Hey Megan!

I don't have any updates from our side that I know of. But Jerri Mares in the Comms Director at the AG office. Here's her info:

[jmares@nmag.org](mailto:jmares@nmag.org)

Jerri Mares  
 Director of Communications & Legislative Affairs  
 Office of the Attorney General  
 Office (505) 717-3543 Cell (505) 321-4372

**From:** Megan O'Matz <Megan.OMatz@propublica.org>  
**Sent:** Monday, February 28, 2022 10:48 AM  
**To:** Curtas, Alex, SOS <Alex.Curtas@state.nm.us>  
**Subject:** [EXTERNAL] RE: New Mexico possible charges

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,  
 Sorry for the delay. We are working to publishing our story about VoteRef later this week.  
 Any update on the attorney general and whether they will investigate or pursue charges?  
 If not, do you have a media contact over there at the attorney general's office?  
 Thank you!

**Megan O'Matz**  
 Reporter for ProPublica, Wisconsin  
 Cell: (954) 873-7576  
[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)  
<https://www.propublica.org/midwest>

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Tuesday, December 21, 2021 10:20 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** New Mexico possible charges

Hey Megan,

The issue relates to the transfer and publication of the voter data. This is the crux: "We do not believe providing this personal voter data on a private website that intends to spread

**EXHIBIT**

**P8**

exhibitsticker.com

misinformation about the 2020 General Election meets the definition of appropriate use as either for a "governmental purpose," "election related," or "election campaign purposes."

I've attached our referral letter which lays it all out. Let me know if I can provide any clarification on this. Thanks! -A

**Alex Curtas | Communications Director**

New Mexico Secretary of State Maggie Toulouse Oliver  
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
Cell: 505.469.2783 | Desk: 505.827.3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Friday, December 17, 2021 12:29 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. Much appreciated.

Question – can you elaborate on how the publication of voter data online may violate state law?

(VoteRef likely will argue that they are using it for election and research purposes.)

Thank you again,

Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Friday, December 17, 2021 12:40 PM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** Re: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

On the legal issue: Our office believes this publication of voter data by VoteRef.com is in direct violation of the New Mexico Election Code. We do not believe that posting New Mexican's private voting information online is legal use of this information. We will refer the use of this information by VoteRef.com to the New Mexico Attorney General for criminal investigation and prosecution.

I've also attached the email correspondence and the original request and receipt.

Let me know if this works for what you need.

Thanks!

Alex

**Alex Curtas | Communications Director**

New Mexico Secretary of State Maggie Toulouse Oliver  
325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
Cell: 505.469.2783 | Desk: 505.827.3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

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---

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Thursday, December 16, 2021 1:05 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, thank you....  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Thursday, December 16, 2021 2:03 PM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hey Megan,

Looking into all this now. Thanks for sending that email correspondence with LocalLabs. I'll get back to you asap after we track down that email chain and the payment receipt. And we're looking into the legal issue as well and I'll get an answer for you on that, too.

-A

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Thursday, December 16, 2021 11:44 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Alex,  
I see that your law says the voter rolls can be used only for  
"Governmental or election and election campaign purposes only." Unlawful use

of lists is a 4<sup>th</sup> degree felony.

The VoteRef folks say online: " The purpose of this website is to provide public access to official government data pertaining to elections, including voter registration rolls, with a goal of encouraging greater voter participation in all fifty states. Our system of government is based upon citizen participation. We believe the people, in effect, own this data and have a legal right to see it in an understandable and transparent form. " [Vote Reference](#)

Is this an acceptable use under New Mexico law?

Thank you again,

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

---

**From:** Megan O'Matz

**Sent:** Thursday, December 16, 2021 12:30 PM

**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>

**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex.

I found this attached document on the VoteRef web site, showing someone from LocalLabs contacted Lauren Hutchinson, SOS compliance officer, to access the records.

- Can you send me an unredacted version of this correspondence so I can see who from LocalLabs was asking for the data? LocalLabs provides data to partisan news web sites. (I'm not asking for user ID or account info.)
- Can you provide me with the payment receipt showing who paid the \$5,000 for the data?
- Is there anything improper under New Mexico law about accessing the data this way or posting it all online? I appreciate any link to the relevant statute.

Thank you again for your time in helping us report accurately and fairly on this important issue.

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Thursday, December 16, 2021 10:55 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

Simply put, VoteRef.com is misleading the public about New Mexico's voter rolls and are perpetuating misinformation. They reflect a lack of understanding about how the process of voter list maintenance works. These attempts by political operatives to cast doubt on the 2020 elections are an affront to our democracy and to the professionals who run our elections throughout the country. This most recent attempt that you've brought to our attention from VoteRef.com is no different.

To quickly answer your specific questions:

- The "discrepancy" they are alleging stems from their misunderstanding about how voter rolls are maintained by election administrators. The data sets they seem to be comparing were captured at two different points in time. The voting history data from 4/15 is a reflection of the counts at that point in time and not of the data as it was on Election Day or on any other day.
- No, our Office has not been contacted by this group to discuss their findings; likely because that would not serve their intended goal of spreading misinformation. New Mexico law requires that this data be requested through a specific process affirming lawful use of this data. However, we do not have a record of this group requesting voter data from our office directly, which brings into question how they obtained this data, if the data has not been manipulated, and if they are using it for a lawful purpose.

Because accusations from political operatives like this are meant to impugn the integrity of our voter rolls, I'd also just want to note that our Office is confident that the processes and procedures already in place for voter list maintenance not only follow all state and federal guidelines and keep our voter rolls clean and up-to-date, but go above and beyond those requirements.

During the voter list maintenance process New Mexico's election administrators, as required

by law, must maintain and update their voter rolls continually -- everything from checking obituaries, receiving monthly reports from NM Vital Statistics about deceased individuals, and suspending or reinstating felons based on conviction notices from the Department of Corrections. This is done in conjunction with the proactive, pro-voter measures already in place in New Mexico, such as automated voter registration, all-mail special elections, and online and same day voter registration. All of these systems combine to ensure that voter information is up-to-date in New Mexico, resulting in our state having some of the "cleanest" voter records in the United States.

Please let me know if that works for what you need.

Thanks,

Alex

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Wednesday, December 15, 2021 11:01 AM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Thank you, Alex. I am still reporting and don't have a publication date yet but appreciate your help as soon as convenient.

Best,  
Megan

**From:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>  
**Sent:** Wednesday, December 15, 2021 11:39 AM  
**To:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Subject:** RE: [EXTERNAL] voter integrity question from ProPublica

Hi Megan,

I'm looking into this now with our staff. Do you have a deadline for this?

Thanks,

Alex

**From:** Megan O'Matz <[Megan.OMatz@propublica.org](mailto:Megan.OMatz@propublica.org)>  
**Sent:** Tuesday, December 14, 2021 2:56 PM  
**To:** Curtas, Alex, SOS <[Alex.Curtas@state.nm.us](mailto:Alex.Curtas@state.nm.us)>

**Subject:** [EXTERNAL] voter integrity question from ProPublica

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Alex,

I'm a reporter with ProPublica and am looking into an organization called VoteRef.com that is posting tens of thousands of voter histories online nationwide, including New Mexico.

The group is alleging a 3,844 discrepancy between the number of ballots reported cast Nov 3, 2020 in New Mexico vs the number of voters shown in the voter history.

[Vote Reference](#) = All states    [2020 General Election | Vote Reference](#) = New Mexico

The group says turnout for New Mexico Nov 3 was 928,172. But voter histories obtained by VoteRef on April 15, 2021 show 924,328 participating in that election. That is a difference of 3,844

- What could be the possible explanations for the "discrepancy" in New Mexico?
- And, did your office have any correspondence with this group about their findings or methodology? Can you please provide copies to me?

Thank you,

**Megan O'Matz**

Reporter for ProPublica, Wisconsin

Cell: (954) 873-7576

[megan.omatz@propublica.org](mailto:megan.omatz@propublica.org)

<https://www.propublica.org/midwest>

From: [Curtas, Alex <Alex.Curtas@state.nm.us>](#)  
 To: [Maxwell, Nicole <NMaxwell@alamogordonews.com>](#)  
 Subject: [\[EXTERNAL\] FW: 2020 Otero County Election Audit](#)  
 Date: Friday, March 4, 2022 2:23:41 PM

Here's the full email exchange

**Alex Curtas | Communications Director**  
 New Mexico Secretary of State Maggie Toulouse Oliver  
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
 Cell 505 469 2783 | Desk 505 827 3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

Follow us on [Facebook](#) + [Twitter](#)

From: Curtas, Alex <Alex.Curtas@state.nm.us>  
 Sent: Friday, March 4, 2022 1:23 PM  
 To: Maxwell, Nicole <NMaxwell@alamogordonews.com>  
 Cc: Holmes, Robyn <rolyh@co.otero.nm.us>  
 Subject: Re: [EXTERNAL] FW: 2020 Otero County Election Audit

Hey Nicole,

I had my team do another check to make sure we weren't missing anything. And I can confirm again that our office has no record of providing voter data to Erin Clements/Hughes or New Mexico Audit Force. Further, if any individual or organization requested and received voter data from our office and signed the required affidavit that the voter data was for a purpose authorized by law and has now utilized that data for a purpose not authorized, or made available to a 3rd party for an unlawful purpose, we intend to make a criminal referral to the AG's Office, as we have against other nefarious actors. Improperly obtaining and improperly using voter data in NM is a felony offense.

Thanks,

Alex

**Alex Curtas | Communications Director**  
 New Mexico Secretary of State Maggie Toulouse Oliver  
 325 Don Gaspar, Ste. 300 | Santa Fe, NM 87501  
 Cell 505 469 2783 | Desk 505 827 3613  
[alex.curtas@state.nm.us](mailto:alex.curtas@state.nm.us)

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From: Maxwell, Nicole <NMaxwell@alamogordonews.com>  
 Sent: Friday, March 4, 2022 10:29 AM  
 To: Curtas, Alex <Alex.Curtas@state.nm.us>  
 Cc: Holmes, Robyn <rolyh@co.otero.nm.us>  
 Subject: [EXTERNAL] FW: 2020 Otero County Election Audit

**CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.**  
 I've CC'd Robyn so she can be in the loop on this.

Nicole Maxwell  
 Reporter  
 Alamogordo Daily News  
 Cell Phone 575-415-6605

From: Erin Hughes <erin\_hughes@yahoo.com>  
 Sent: Friday, March 4, 2022 10:13 AM  
 To: Maxwell, Nicole <NMaxwell@alamogordonews.com>  
 Subject: Re: 2020 Otero County Election Audit

Thank you for clarifying, Nicole. The same or so. I'm not using the web-based source, I am using the SOVS' original voter registration database which was provided directly by her office.

I'm merely pointing out that the SOVS apparently provides the same voter database to those people who run that website. And those people publish the whole thing online with a lot more personal information than is even shown to anyone. So, it's hard for her to pretend she has a problem with our campaign process when she is apparently ok with the data being made public and accessible by anyone who may or may not have legitimate reasons to.

I'm glad you'll still join us. I will send out an email and ask, if there is a volunteer who would be willing to talk about their experiences and have you join them as they complete campaigning a pack. I may not have an answer by our campaign tomorrow - but I'm pretty sure I can have something set up for next Saturday.

Thank you,  
 Erin

On Friday, March 4, 2022, 09:40:01 AM CST, Maxwell, Nicole <[NMaxwell@alamogordonews.com](mailto:NMaxwell@alamogordonews.com)> wrote:

Erin,

So this is the source you're using or that you're checking info against? Just trying to be as accurate as possible.

I had no idea there that many Nicole Maxwells floating around truth be told.

Also, without camera, I would like to hang with the canvassers one day to see what they are doing and possibly to talk to them about their experiences so far. Identities can be left anonymous. Like: "I'm a canvasser here's his take on things..." That sort of thing. Just let me know when and where.

Thanks again,

Nicole Maxwell  
 Reporter  
 Alamogordo Daily News  
 Cell Phone 575-415-6605

From: Erin Hughes <[erin\\_hughes@yahoo.com](mailto:erin_hughes@yahoo.com)>  
 Sent: Friday, March 4, 2022 8:30 AM  
 To: Maxwell, Nicole <[NMaxwell@alamogordonews.com](mailto:NMaxwell@alamogordonews.com)>  
 Subject: Re: 2020 Otero County Election Audit

Oh that is safety concerns that have arisen due to information derived at our campaign. I don't think it's me to publish photos.

If I could direct your attention to one other thing. If you go to the website <https://www.foxnews.com> and type in your name, find yourself on the list that comes up, and click on your name, you'll get the following page:

**EXHIBIT**

**P9**

VoteRef.com

Registration Address  
[Redacted]  
[Redacted]  
[Redacted]

Registration Date  
[Redacted]

Birthdate  
[Redacted]

Party Affiliation  
[Redacted]

Registration Status  
Active

Precinct  
[Redacted]

Election  
2020 General Election

Recorded Vote  
Voted

State  
New Mexico

County  
New Mexico State

Precinct  
New Mexico State

The information on this website about this voter's election records of this voter's voting history was provided to the Voter Reference Foundation (VRF) by the New Mexico Secretary of State's Bureau of Elections ("Bureau") on April 15, 2021. The information is publicly available [here](#). The information published here by VRF appears exactly as provided by the Bureau by publishing Bureau records verbatim. VRF does not state, represent, suggest, or imply that this voter voted or that this voter's ballot was counted or not counted. Additionally, the registration information of any voter who is in the Safe At Home program (hereinafter referred to as a "protected voter") must be removed from the publicly available voter list by the New Mexico Secretary of State. If you believe the information provided to VRF by the Bureau is inaccurate or if you believe that you or any person listed on VoteRef.com is a protected voter whose protected information should not appear on VoteRef.com, please immediately contact the Bureau by emailing [voterinformation@state.nm.gov](#) or calling 505.837.3600. For assistance with the process of becoming a protected voter, click [here](#) (Safe At Home program). Upon receipt of official documentation confirming proof of any person's protected voter status sent to us at [voterinfo@voterref.com](#), VRF will remove the protected information from VoteRef.com.

Voter  
[Redacted]

Note that this website publishes your name, address, birth year, precinct, party affiliation, registration date, and whether or not you voted. The site claims to have been given all this data by the NM Secretary of State's Office. Also note that anyone could type your name into this website and get this information. We put more limited information than the SRS is currently making accessible to everyone on the web in a form that no one but myself and the canvassers at the door will see. The NM claims of having concerns about private information being shared by our site are appear to be nothing more than a smear campaign against people who are simply trying to determine the health of the voter registration database that she maintains.

Thank you,  
Eva Clements

On Friday, March 4, 2022, 8:59:02 AM PST, Nicole Maxwell <[nicolemaxwell@alamogordo.com](mailto:nicolemaxwell@alamogordo.com)> wrote:

Thanks. Have a good one.  
The primary reason for my asking to go with the canvassers was to get photos.

Thanks again.

Nicole Maxwell  
Reporter  
Alamogordo Daily News  
Cell Phone 475-415-6805

From: [nicolemaxwell@alamogordo.com](mailto:nicolemaxwell@alamogordo.com)  
Sent: Friday, March 4, 2022 7:44 AM  
To: Maxwell, Nicole <[NicoleMaxwell@alamogordo.com](mailto:NicoleMaxwell@alamogordo.com)>  
Subject: Re: 2020 Dine County Election Audit

The list of voters came from the Secretary of State

"I also like to draw your attention to the Dine County Commission meeting minutes from November 18, 2021 where the Dine County Commission unanimously voted to "on efforts with New Mexico Audit Force as well as a coalition to demand election audits on the local county level."

So when our canvassers say they're auditing the county by canvassing the rolls, that's 100% accurate and in accordance with the resolution passed by the Commissioners...and like our canvassers have been saying

Thank you,  
Eva Clements  
On Friday, March 4, 2022, 8:59:02 AM PST, Maxwell, Nicole <[NicoleMaxwell@alamogordo.com](mailto:NicoleMaxwell@alamogordo.com)> wrote:

Enna,

Thanks for getting back to me so quickly. One more question. Where did the list of voters your group are using for the canvass come from?

Thanks.

Nicole Maxwell  
Reporter  
Alamogordo Daily News  
Cell Phone 475-415-6805

From: [nicolemaxwell@alamogordo.com](mailto:nicolemaxwell@alamogordo.com)  
Sent: Thursday, March 3, 2022 6:01 PM  
To: Maxwell, Nicole <[NicoleMaxwell@alamogordo.com](mailto:NicoleMaxwell@alamogordo.com)>  
Subject: Re: 2020 Dine County Election Audit

Nicole,

Thank you for reaching out.

We have attached a training document we use to train our canvassers. You will also find a sample form that our canvassers fill out for each address where the residents agree to participate in a voluntary survey. You will see that there is less personal information on the form than you will find in a sample online phonebook search. There is no information pertaining to race or political affiliation.

We typically spend half an hour to an hour training each canvasser. We work in pairs and try to pair new people up with those who have experience. There is often another 2 hours of on-the-job training following our initial training before getting started. We stress we are never to ask who a person voted for, simply how they cast a ballot: early in person, absentee, or in person on election day (either against the voter rolls. We are not to engage in any kind of political conversation, and if a person doesn't want to participate or becomes hostile, we smile, thank them, and walk away. We consult within an enforcement on a regular basis.

An ongoing complaint against the Dine County canvassers appears to be coordinated and lodged by political operatives, offering false narratives that the canvassers cannot mention that the county commissioners the public would like your attention to the Dine County Commission meeting minutes dated November 18, 2021. You will find that the Commission unanimously passed a resolution to join New Mexico Audit Force through a coalition effort to audit/audit Dine County.

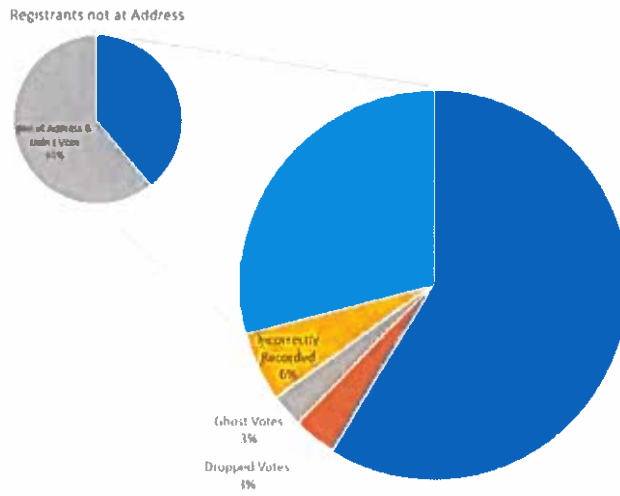
Regardless of the explicit authorization to audit/canvass, at no time do the canvassers ever state they are employees of the county, but rather state they are volunteers auditing the county to check the accuracy of the voter rolls. This is entirely consistent with the County's resolution.

One particular example of a malicious complaint was brought by my brother, Justice James, to the "New Mexico State" in a social media post that the SOS referenced, yet voluntarily agreed to participate in the occasional survey as our canvassers requested. In fact, Justice let our canvassers know that one of the people registered to vote in his district had not lived there in years. So, there are questions concerning Justice's veracity of having some knowledge since he chose to participate in the voluntary survey on their own terms support our findings that the voter rolls are out of date at best.

More importantly, that Justice publishes my name and phone number (which is not publicly available) in the end of the social media which has been referenced by the SOS. This has resulted in me receiving at least two dozen threatening messages (including death threats) which are being shared with the Dine County Sheriff and Sheriff's Office. Three political operatives have been harassed both in person and online as well.

Our canvassers are showing that there are significant problems with the rolls. Here is a summary of the results of our canvass current as of 2/26/2022:

Canvass Results - Total Complete to Date



We'd be pleased to have you join a canvassing team to see our process, however we cannot allow you to take pictures, report names of any of our canvassers, or report where we meet because of the harassment and death threats that we are receiving. I hope terms are acceptable to you, please let me know and I can provide you with more details on how you can join us. We canvass on Saturday morning.

Please let me know if you have any additional questions.

Sincerely,  
Lisa Clements  
575 680 4004

On Thursday, March 3, 2022, 03:43:32 PM CST, Maxwell Nicole <[nicolemaxwell@amogordo.com](mailto:nicolemaxwell@amogordo.com)> wrote:

Ena,

I am a reporter with the Amogordo Daily News. I have a few questions for you. First is I would like to see, if possible, the training materials and list of questions the canvassers are asking Otter County residents. I would also like to join the canvassers one day for maybe an hour or so just to see how it is done and to get some photos of the canvassers in action.

Thanks,

Nicole Maxwell  
Reporter  
Amogordo Daily News  
Cell Phone 575-415-6615



Graves Garrett LLC

May 27, 2022

**Via Electronic Mail Only**

The Hon. Maggie Toulouse Oliver  
New Mexico Secretary of State  
325 Don Gaspar, Suite 300  
Santa Fe, NM 87501

New Mexico Department of State  
Attn: Bureau of Elections  
Sos.elections@state.nm.us

**Re: Notice of Violation of National Voter Registration Act &  
Request for Records**

Dear Secretary Toulouse Oliver:

We represent the Voter Reference Foundation ("VRF") and write on its behalf. You are receiving this letter because you are the designated chief election official under the NVRA. This letter serves as statutory notice to the New Mexico Secretary of State and the State of New Mexico that they are in violation of the National Voter Registration Act ("NVRA"), specifically its public inspection provision, 52 U.S.C. § 20507(i)(1). Voter registration data, including registration lists, fall within the scope of this requirement and must be made available for public inspection. New Mexico law prohibits access to voter registration data for all but a few limited purposes, in violation of the NVRA's edict that the State must "make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters." 52 U.S.C. § 20507(i)(1).

On February 15, 2022, VRF requested information related to the number of registered voters that voted in the November 3, 2020 election and have subsequently been placed in an inactive, canceled, deleted, or removed status between 11/3/20 and 4/13/21. See Exhibit A. The records requested relate to "the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters" and are therefore subject to the NVRA's public inspection requirement. To date, the Secretary of State has not made the requested data available for inspection



Graves Garrett LLC

Notice of NVRA Violation

May 27, 2022

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and has taken the position that it will not fulfill *any* requests from VRF, including the February 15, 2022 request. See Ex. A.

## BACKGROUND

The Secretary of State is the chief election officer of the state, N.M. Stat. § 1-2-1(A), and is responsible for developing, implementing, establishing, and supervising New Mexico's statewide computerized voter registration system in compliance with HAVA to facilitate voter registration and to provide a central database containing voter registration information for New Mexico. N.M. Stat. § 1-5-30(A).

VRF previously requested voter registration records from the Secretary. Ex. A. The Secretary never fulfilled that request and has taken the position that it will not fulfill any requests for information from VRF. *Id.* VRF also obtained voter data from a previous request that Local Labs filed on its behalf.

VRF uses voter data and information to increase election transparency and participation, furthering the purposes of the NVRA to ensure the accuracy and currency of official lists of eligible voters. It does this by combining the data with those of other states, and making this nationwide data set publicly searchable by all those who associate with VRF by agreeing to use the data for election-related and non-commercial purposes. The Secretary reacted to VRF's work by attacking VRF in the press, threatening criminal enforcement, making it clear that she disagrees with VRF's mission, and on account of that mission, making clear that she will not release any records to VRF.

## PUBLIC INSPECTION VIOLATIONS

The NVRA requires each State to maintain for at least 2 years and "make available for public inspection and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official voter lists of eligible voters." 52 U.S.C. § 20507(i)(1). Those "records" which must be made available under the NVRA include the "file maintenance list" and "voter data" as those terms are defined in N.M. Stat. § 1-5-2, as well as "voter data" as that term is used in N.M. Stat. § 1-4-5.5. Both the information obtained from the Local Labs request and the information sought in the February 15, 2021 request regarding the removal of voters from the rolls are "records" as that term is defined in the NVRA.



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**(i) New Mexico's restrictions on public inspection of certain types of voter data are preempted by the NVRA.**

On February 15, 2022, VRF requested "the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021." Ex. A. The NVRA specifically requires states to make reasonable efforts to maintain the accuracy of the rolls, including by removing the names of ineligible voters from the official lists of eligible voters due to the death of the registrant or a change in the residence of the registrant to a place outside the jurisdiction in which he or she is registered. 52 U.S.C. § 20507(a)(4). Thus, documents reflecting or related to this maintenance function are "records" which must be made available for public inspection under the NVRA. 52 U.S.C. 50507(i)(1) (public inspection requirement applies to "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters...").

Yet § 1-4-5.5 does not provide any right to inspect the "file maintenance list" as that term is defined in N.M. Stat. § 1-5-2, regardless of the purpose motivating the request. The public inspection right under the NVRA is an unqualified right of access. Because New Mexico law lacks any provision for public inspection of the "file maintenance list", a "record" subject to the NVRA's public inspection requirement, it is in violation of federal law.

**(ii) The Secretary's refusal to respond to VRF's February 15, 2022 request violates the NVRA's public inspection provision.**

Additionally, the Secretary's office never responded to VRF's request and internally told staff that "we are not fulfilling records requests from VoteRef." Ex. A. To be very clear, VRF is ready and willing to sign the same version of the affidavit signed by Local Labs in April 2021, which expressly allows the sharing and use of data for VRF's purposes, and which the Director of Elections stated it would still accept. However, the Secretary has a policy of refusing to share data with VRF. By failing or refusing to provide the requested records, the Secretary's office has violated the NVRA's public inspection provision.



Notice of NVRA Violation  
May 27, 2022  
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## REQUESTS FOR RECORDS

Finally, pursuant to your obligations under the NVRA, 52 U.S.C. § 20507(i) and New Mexico law, N.M. Stat. § 1-4-5.5, please make available to us the following records concerning “the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency” of New Mexico’s official eligible voter lists:

1. A complete list, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020 General Election, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) status, or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021, including total count of same.
2. Current voter registration data, including voter history, for all active, inactive, suspended, and cancelled status voters (including any registration status other than active).

VRF’s intended election use comprises two distinct projects. For its first project, just as VRF publishes voter data for many other states, and as it recently published voter data in New Mexico, VRF intends to publish the requested information online for election related purposes, but it will only publish the personal information of voters online if VRF is granted relief in *Voter Reference Foundation, et al. v. Balderras, et al.*, case number 1:22-CV-00222 in the United States District Court for the District of New Mexico (the “Federal Litigation”) or in any other legal proceeding.

For its second project, VRF intends to analyze the records, information, and data provided in response to the above requests in order to engage in a discrepancy review of the New Mexico voter rolls. VRF intends to publish this analysis online without disclosing the personal information of any individual voter. VRF will comply with this non-public-disclosure promise for the data it uses on its second project regardless of whether it prevails in the Federal Litigation. And again, for the sake of clarity, no personal information of any individual voter will be published online unless VRF is granted relief in the Federal Litigation or in any other legal proceeding.



Graves Garrett LLC

Notice of NVRA Violation

May 27, 2022

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If you deny this request in whole or in part for any reason, please notify us in writing indicating the basis of your denial.

Signed Voter Information Authorization forms for each of the above requests are attached to this letter as Exhibit B. Please contact us to facilitate payment for the fulfillment of these requests.

### CONCLUSION

The State and your office are required to correct the violations identified herein within 20 days of receipt of this notice, as each violation occurred within 120 days of June 7, 2022, the date of New Mexico's primary. 52 U.S.C. § 20510(b)(2). If the State and your office do not take specific action to correct these violations within 20 days of this notice, VRF reserves any and all rights against your office and the State of New Mexico. VRF may seek recourse via a lawsuit, 52 U.S.C. § 20510(b), and seek an award of its attorney's fees, expenses, and costs incurred in pursuing that action. 52 U.S.C. § 20510(c).

Because VRF is currently in litigation with the State regarding related issues, we have copied the Secretary of State's counsel of record, Olga Serafimova, on this correspondence. Please contact me at your earliest convenience to advise whether or not your office and/or the State of New Mexico intends to correct these violations.

Respectfully,

Edward D. Greim

cc: Olga Serafimova, Esq., New Mexico Attorney General's Office  
Sharon Pino, Deputy Secretary of State  
Mandy Vigil, Elections Director  
Gina Swoboda, Executive Director of VRF  
Carter Harrison IV, Esq., Counsel to VRF

Enclosures:

Ex. A, March 11, 2022 Email re: Not Fulfilling VRF Requests  
Ex. B, May 27, 2022 Voter Information Authorization Forms

**From:** [Rostock, Patrick, SOS](#)  
**To:** [Vigil, Mandy, SOS](#)  
**Cc:** [Pino, Sharon, SOS](#)  
**Subject:** FW: [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks  
**Date:** Friday, March 11, 2022 8:36:00 AM  
**Attachments:** [image001.jpg](#)

Hi Mandy and Sharon,

Per Dylan's contact with the AG, we are not fulfilling records requests from VoteRef. Any information on how to proceed with this would be appreciated. I am also happy to forward this to the AG but I'm unsure what contact we have who is handling this. The request is clearly trying to create an aggregate picture of the voter rolls on election day 2020, which lends credence to the idea that VoteRef and Erin Clements/New Mexico Audit Force are working in concert.

Best,

**Email Signature Logo**



**Patrick Rostock | Paralegal & Records Custodian**

New Mexico Office of the Secretary of State  
 325 Don Gaspar, Ste. 300 | Santa Fe NM 87501  
 Desk: (505) 827-7941

[patrick.rostock@state.nm.us](mailto:patrick.rostock@state.nm.us)

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**From:** Elections, SOS, SOS <[SOS.Elections@state.nm.us](mailto:SOS.Elections@state.nm.us)>

**Sent:** Thursday, March 10, 2022 5:07 PM

**To:** Rostock, Patrick, SOS <[Patrick.Rostock@state.nm.us](mailto:Patrick.Rostock@state.nm.us)>

**Subject:** [Ticket #41418] [EXTERNAL] Information Request (LB) - Spiceworks

On Mar 10, 2022 @ 05:06 pm, [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com) wrote:

Good afternoon,

Can you please provide a status update on the request?

Thank you,

Voter Reference Foundation

### Ticket Overview

[Reply Now](#)

**CREATOR** [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com)

**ASSIGNEE** Patrick Rostock

Ticket Commands let you take control of your help desk remotely. For a full list of available

**Exhibit A**

commands and usage [click here](#).

Examples: #close, #add 5m, #assign to bob, #priority high

## Ticket History

---

*On Feb 16, 2022 @ 09:13 am, Charlotte Chinana wrote:*

Assigned to Patrick Rostock.

---

*On Feb 15, 2022 @ 04:06 pm, [data@voterreferencefoundation.com](mailto:data@voterreferencefoundation.com) wrote:*

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Election Official,

Please provide us with the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021.

Thank you,

Voter Reference Foundation

:la

---



## Voter Data Request Form

Please select one of the following:

☐ Electronic File ☐ Printed List ☐ Mailing Labels

## VOTER INFORMATION AUTHORIZATION

**NOTE:** Minimum charge for any request is \$25.00

### Please indicate the purpose of this request:

☐ Governmental Use ☐ Campaign Use ☒ Election Related

### Please indicate the type of file that you are requesting:

☒ Statewide ☐ District \_\_\_\_\_  
☐ County(s) \_\_\_\_\_  
☐ Other: \_\_\_\_\_

### Please indicate all information that you are requesting:

**NOTE:** All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts (all districts associated with a voter) ☒ Voting History (elections a voter has participated in) ☒ Method Voted (i.e. absentee, early or Election Day)  
☒ Other\*: Current Voter Registration data, including voter history for all active, inactive, suspended, and cancelled status voters (including any registration status other than active)

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

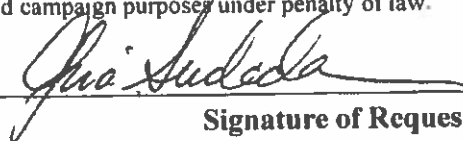
### Information of Requestor

Name: Gina Swoboda Organization: Voter Reference Foundation  
Address: 1901 Butterfield Road, Suite 120, Downers Grove, IL 60515 Phone: (844) 302 - 2109  
Email Address: data@voterreferencefoundation.com Date: 05 / 27 / 2022

### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

  
\_\_\_\_\_  
Signature of Requestor

### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

Exhibit B



## Voter Data Request Form

Please select one of the following:

☐ Electronic File ☐ Printed List ☐ Mailing Labels

### VOTER INFORMATION AUTHORIZATION

NOTE: Minimum charge for any request is \$25.00

#### Please indicate the purpose of this request:

☐ Governmental Use ☐ Campaign Use ☒ Election Related

#### Please indicate the type of file that you are requesting:

☒ Statewide ☐ District \_\_\_\_\_  
☐ County(s) \_\_\_\_\_  
☐ Other: \_\_\_\_\_

#### Please indicate all information that you are requesting:

NOTE: All files come with registrant name, address (both physical and mailing), year of birth, party affiliation, precinct assignment, jurisdiction and registrant ID number. Any additional fields must be indicated below.

☒ Districts (all districts associated with a voter) ☒ Voting History (elections a voter has participated in) ☒ Method Voted (i.e. absentee, early or Election Day)  
 Please provide a complete list, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020 General Election, who  
☒ Other\*: have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) status, or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021, including total count of same.

\*If you request information that is not available in the voter system you will be notified before request is fulfilled.

#### Information of Requestor

Name: Gina Swoboda Organization: Voter Reference Foundation  
 Address: 1901 Butterfield Road, Suite 120, Downers Grove, IL 60515 Phone: (844) 302 - 2109  
 Email Address: data@voterreferencefoundation.com Date: 05 / 27 / 2022

#### Authorization

Unlawful use of the information requested on this form shall consist of willful selling, loaning, providing access to or otherwise surrendering, duplicating or alteration of information as stated in the Voter Records System Act (§1-5-1 through 1-5-31 NMSA 1978).

I hereby swear that the requestor will not use or make available to others to use the requested material for purposes other than governmental, election, research and campaign purposes under penalty of law.

Signature of Requestor

#### For Office Use Only

Total Cost: \$ \_\_\_\_\_ Date Received: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ Date Completed: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_  
 Comments: \_\_\_\_\_ Receipt Number: \_\_\_\_\_

5/24/22, 9:36 AM

The Office of New Mexico Attorney General Mail - Confidential



Trujillo, Anna <atrujillo@nmag.gov>

Confidential

Anna Trujillo <atrujillo@nmag.gov>  
To: ccomonroney@fbi.gov

Wed, Jan 26, 2022 at 9:40 AM

 2021-12-20 Ltr to Kelly related to Voter Data Criminal Violation Referral.pdf  
1538K



4/21/22, 10:21 AM

The Office of New Mexico Attorney General Mail - Call re Voter Reference Foundation



Serafimova, Olga &lt;oserafimova@nmag.gov&gt;

**Call re Voter Reference Foundation**

3 messages

Anthony OBrien &lt;Anthony.OBrien@doj.ca.gov&gt;

Fri, Apr 8, 2022 at 7:31 PM

To: "oserafimova@nmag.gov" &lt;oserafimova@nmag.gov&gt;, "akelly@nmag.gov" &lt;akelly@nmag.gov&gt;

Dear Ms. Serafimova and Ms. Kelly:

My name is Tony O'Brien, and I am a Deputy Attorney General in the California Attorney General's Office. I received your names through the California Secretary of State's Office and the pleadings in the *Voter Reference Foundation (VoteRef) v. Balderas* matter.

If you have a chance next week, I would be interested in speaking with you briefly about New Mexico's response to Voter Reference Foundation and the resulting litigation, as the California Secretary of State's Office is weighing its options in response to the VoteRef's intention to post voter information from every state on its website.

Please let me know when you may be available for a short call, and I will set up a conference line. Thank you very much in advance for your cooperation.

Regards,

Tony

Anthony P. O'Brien  
Deputy Attorney General  
California Department of Justice  
Government Law Section  
1300 I Street, 17<sup>th</sup> Floor  
Sacramento, CA 95814  
(916) 210-6002  
[anthony.obrien@doj.ca.gov](mailto:anthony.obrien@doj.ca.gov)

**EXHIBIT****P12**

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Serafimova, Olga &lt;oserafimova@nmag.gov&gt;

Mon, Apr 11, 2022 at 1:36 PM

<https://mail.google.com/mail/u/0/?ik=7b0f737551&view=pt&search=all&permthid=thread-f%3A1729592449898089418&simpl=msg-f%3A17295924498...> 1/2

4/21/22, 10:21 AM

The Office of New Mexico Attorney General Mail - Call re Voter Reference Foundation

To: Anthony OBrien <anthony.obrien@doj.ca.gov>  
Cc: "akelly@nmag.gov" <akelly@nmag.gov>

Hi Anthony,  
I'd be happy to discuss with you. I am available any time for the rest of today if that works for you.  
Thanks,  
Olga.

[Quoted text hidden]

--

Olga M. Serafimova  
Senior Civil Counsel  
Executive Office  
New Mexico Office of the Attorney General  
office: (505) 490-4046  
cell: (505) 401-6398  
P.O. Drawer 1508  
Santa Fe, NM 87501-1508

---

**Anthony OBrien** <Anthony.OBrien@doj.ca.gov>  
To: "Serafimova, Olga" <oserafimova@nmag.gov>  
Cc: "akelly@nmag.gov" <akelly@nmag.gov>

Mon, Apr 11, 2022 at 1:56 PM

Great! I can call you at 3:00 pm Mountain Time/2:00 pm Pacific time. I will circulate a conference line.

Thank you,

Tony

**From:** Serafimova, Olga <oserafimova@nmag.gov>  
**Sent:** Monday, April 11, 2022 12:36 PM  
**To:** Anthony OBrien <Anthony.OBrien@doj.ca.gov>  
**Cc:** akelly@nmag.gov  
**Subject:** Re: Call re Voter Reference Foundation

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

[Quoted text hidden]

[Quoted text hidden]

4/21/22, 10:21 AM

The Office of New Mexico Attorney General Mail - Conference call to discuss Voter Reference Foundation v. Balderas



Serafimova, Olga <oserafimova@nmag.gov>

---

## Conference call to discuss Voter Reference Foundation v. Balderas

1 message

---

Anthony OBrien <Anthony.OBrien@doj.ca.gov>

Mon, Apr 11, 2022 at 2:02 PM

To: "Serafimova, Olga" <oserafimova@nmag.gov>, "akelly@nmag.gov" <akelly@nmag.gov>

Call-In No.: (888) 204-5984

Participant Code: 9561366

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 **invite.ics**  
3K

**EXHIBIT**

**P13**

exhibitsticker.com

4/21/22, 10:23 AM

The Office of New Mexico Attorney General Mail - RE: Accepted: Conference call to discuss Voter Reference Foundation v. ... @...



Serafimova, Olga &lt;oserafimova@nmag.gov&gt;

## RE: Accepted: Conference call to discuss Voter Reference Foundation v. ... @ Mon Apr 11, 2022 3pm - 3:30pm (MDT) (Anthony OBrien)

4 messages

Anthony OBrien <Anthony.OBrien@doj.ca.gov>  
To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 3:32 PM

-----Original Appointment-----

From: Google Calendar &lt;calendar-notification@google.com&gt; On Behalf Of oserafimova@nmag.gov

Sent: Monday, April 11, 2022 1:10 PM

To: Anthony OBrien

Subject: Accepted: Conference call to discuss Voter Reference Foundation v. ... @ Mon Apr 11, 2022 3pm - 3:30pm (MDT) (Anthony OBrien)

When: Monday, April 11, 2022 2:00 PM-2:30 PM (UTC-08:00) Pacific Time (US &amp; Canada).

Where:

**EXTERNAL EMAIL:** This message was sent from outside DOJ. Please do not click links or open attachments that appear suspicious.

oserafimova@nmag.gov has accepted this invitation.

### Conference call to discuss Voter Reference Foundation v. Balderas

When Mon Apr 11, 2022 3pm – 3:30pm Mountain Time - Denver

Calendar Anthony OBrien

Who

- Anthony OBrien - organizer
- oserafimova@nmag.gov - creator
- Anne Kelly

Call-In No.: (888) 204-5984

Participant Code: 9561366

EXHIBIT

P14

exhibitstick.com

4/21/22, 10:23 AM

The Office of New Mexico Attorney General Mail - RE: Accepted: Conference call to discuss Voter Reference Foundation v. ... @...

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Invitation from [Google Calendar](#)

You are receiving this courtesy email at the account [anthony.obrien@doj.ca.gov](mailto:anthony.obrien@doj.ca.gov) because you are an attendee of this event.

To stop receiving future updates for this event, decline this event. Alternatively you can sign up for a Google account at <https://calendar.google.com/calendar/> and control your notification settings for your entire calendar.

Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP. [Learn More](#).

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

 **Fusaro Motion to Dismiss and Opp to PI.pdf**  
273K

**Anthony OBrien** <Anthony.OBrien@doj.ca.gov>  
To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 3:33 PM

[Quoted text hidden]

 **Fusaro Motion for PI Memo.pdf**  
373K

**Anthony OBrien** <Anthony.OBrien@doj.ca.gov>  
To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 3:43 PM

[Quoted text hidden]

 **Fusaro v. Howard MSJ Memo Opinion.pdf**  
261K

**Anthony OBrien** <Anthony.OBrien@doj.ca.gov>  
To: "oserafimova@nmag.gov" <oserafimova@nmag.gov>

Mon, Apr 11, 2022 at 3:46 PM

[Quoted text hidden]

## 2 attachments

 **Fusaro Order on PI and Motion to Dismiss.pdf**  
83K

 **Fusaro - Memo Opinion re PI and MTD.pdf**

4/21/22, 10:23 AM  
270K

The Office of New Mexico Attorney General Mail - RE: Accepted: Conference call to discuss Voter Reference Foundation v. ... @...

# EXHIBIT P 15



STATE OF NEW MEXICO  
**MAGGIE TOULOUSE OLIVER**  
SECRETARY OF STATE

June 16, 2022

*Via Electronic Mail Only*

Edward D. Greim  
1100 Main St., Ste 2700  
Kansas City, MO 64105  
Email: [EDGreim@gravesgarrett.com](mailto:EDGreim@gravesgarrett.com)

**Re: Response to Notice of Violation of NVRA**

Mr. Griem:

On May 27, 2022, our Office received your Notice of Violation of the National Voter Registration Act ("NVRA") ("Notice"). In the *Notice*, you allege a violation of 52 U.S.C. § 20507(i)(1). You allege that Voter Reference Foundation ("VRF") made a NVRA request for records via email on February 15, 2022. *See Exhibit A of the Notice* Specifically, the email stated:

"Dear Election Official,

Please provide us with the total count, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021."

The February 15 email was not a request for a record that is maintained by our Office; rather, it sought the total count of registered voters during a period of time to be identified with multiple data points that would have needed to be aggregated and analyzed. Such an inquiry would require our Office to conduct research, aggregate data from multiple sources, generate a report, and potentially separate protected information from such report. While under the NVRA our Office must allow for the inspection of "all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of official lists of eligible voters," this is not a requirement that compels an agency to create new records. 52 U.S.C. § 20507(i)(1). Indeed, both state and federal courts have held as such regarding records request. *See NMSA 1978, § 14-2-8(B)* ("Nothing in the Inspection of Public Records Act shall be construed to require a public body to create a public record."); *Forsham v. Harris*, 445 U.S. 169, 186 (1980) ("FOIA imposes no duty on the agency to create records."). Therefore, your assertion that we

violated the NVRA with respect to the February 15, 2022 email is incorrect.

In addition, in your *Notice* you have requested the following information:

1. A complete list, by county/precinct, of any registered voters who cast a ballot in the November 3, 2020 General Election, who have been subsequently placed in an inactive, canceled, deleted, removed (or any registration status other than active) status, or any voter that has been removed or deleted from the voter rolls between November 3, 2020 and April 13, 2021, including total count of same.
2. Current voter registration data, including voter history, for all active, inactive, suspended, and cancelled status voters (including any registration status other than active).

As with the February 15 email referenced above, Item #1 is not a request for a record, as we do not maintain a list such as the one described therein. As such, we consider both requests closed under the NVRA and, to the extent applicable, IPRA.

With respect to Item #2 and the Affidavit you submitted as required by New Mexico law, in the *Notice*, VRF states that it “intends to publish the requested information online for election related purposes, but it will only publish the personal information of voters if VRF is granted relief in *Voter Reference Foundation, et al. v. Balderas, et al.*, case number 1:22-CV-00222 in the United States District Court for the District of New Mexico (the “Federal Litigation”) or in any other legal proceeding.” *Notice* at 4. As you know from the Federal Litigation and otherwise, it is our position that publishing *any* New Mexico voter data on a website is a violation of the New Mexico Election Code that carries criminal liability. As such, we believe it prudent to delay production of this data at this time; we will either fulfill the request or formally deny it based on the outcome of the Federal Litigation, including any appeal. *See* NMSA 1978, § 1-20-15 (“Conspiracy to violate the Election Code consists of knowingly combining, uniting or agreeing with any other person to omit any duty or commit any act, the omission of which duty, or combination of such act, would by the provisions of the Election Code constitute a fourth degree felony.”).

Respectfully,

/s/ Dylan K. Lange

Dylan K. Lange  
General Counsel  
The Office of The New  
Mexico Secretary of State

cc: Edward Greim  
Rebekah Badell  
Carter Harrison, IV  
Sharon Pino

